IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

MONDAY, THE TWENTY SECOND DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI DEVINDER GUPTA, THE CHIEF JUSTICE

and
THE HON'BLE SRI JUSTICE M.NARAYANA REDDY

WRIT APPEAL NO : 1796 of 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 23/09/2004 in WP No. 12565 OF 2004 on the file of the High Court.)

Between:

M/s Prasad Media Corporation Limited, D.No.6-1-38/1, NTR Garden Marg, Hyderabad, Represented by its General Manager (Finance), Mr.K.V.Mahadevan, S/o Sri K.V. Visvanathan,
aged about 55 years.

..... APPELLANT

AND

1. The Government of Andhra Pradesh, represented by its Secretary, Municipal Administration & Urban Development Dept., Secretariat, Hyderabad.
2. The Municipal Corporation of Hyderabad, Tank Bund, Hyderabad rep.by its Commissioner.
3.The Advertisement Officer, Municipal Corporation of Hyderabad, Tank Bund, Hyderabad.

....RESPONDENTS

Counsel for the Appellant: Mr.S.RAVI

Counsel for Respondent No.1: G.P. for Municipal Administration.

Counsel for Respondent Nos. 2&3: Smt. G.Jyothi Kiran,

SC for MCH.

The Court made the following :

ORAL JUDGMENT:

(per The Honourable Sri Devinder Gupta, the Chief Justice)

Heard.

The notice issued under Section 421 read with Section 622 of the Hyderabad Municipal Corporation Act, 1955 to the appellant by the Advertisement Officer, Municipal Corporation of Hyderabad, was challenged by the petitioner-appellant in Writ Petition on number of grounds including the ground that petitioner was not liable for payment of the advertisement fees. Though the notice had been issued, petitioner-appellant is also stated to have filed a detailed reply to the respondent-Corporation, and, simultaneously approached this Court by way of Writ Petition, in which, learned Single Judge considered the submissions of the parties and disposed of the Writ Petition with direction that since petitioner-appellant had already submitted explanation to the notice issued by the respondent, the Commissioner shall pass appropriate order on the explanation offered by the petitioner, and, only thereafter, respondent-Corporation will take appropriate action.

We are informed that after disposal of the Writ Petition, the Additional Commissioner (Advertisement) has, on 26.10.2004, passed an order. The appellant not only challenged the order of learned Single Judge, but, also that of the Additional Commissioner (Advertisement), stating that though explanation was offered by the appellant, without applying his mind to the facts of the case, he has simply reiterated the counter-affidavit of the respondent, and, thus, it is not a decision in accordance with law as the respondents were bound to consider the appellant's case.

We have heard the learned counsel for the parties.

When a notice was issued to the appellant on 12.7.2004, no doubt, the said notice also obliged the appellant to put before the respondent-Corporation as to whether

the appellant is, or, is not liable for advertisement fee, or, whether or not the advertisement would require any permission from the Municipality. After such an explanation is offered, respondents are also under obligation to apply their independent mind in the light of the provisions of the Municipal Corporation Act, and, then take appropriate decision in accordance with law holding liability of the appellant, if any, and not in a mechanical manner and not to pass such an order reiterating its stand without taking note of the objection, if any. Decision has to be an independent decision after application of mind, and, not a mechanical decision, and, for that reason, we are inclined to allow the Writ Appeal setting aside the order passed by the learned Single Judge as also the consequential order passed by the Additional Commissioner (Advertisement) on 26.10.2004 with direction to the respondents that fresh decision be taken in accordance with law after hearing the appellant. Respondents will give a reasonable opportunity to the appellant of being heard, in which proceedings, appellant may put-forth its case before the respondent-Corporation. No costs.

_____

DEVINDER GUPTA, C.J.

22.11.2004.

_____

M.NARAYANA REDDY, J.

VR.

To

1. The Secretary to Government of Andhra Pradesh, Municipal Administration & Urban Development Dept., Secretariat, Hyderabad.
2. The Commissioner, Municipal Corporation of Hyderabad, Tank Bund, Hyderabad.
3.The Advertisement Officer, Municipal Corporation of Hyderabad, Tank Bund, Hyderabad.

4. Two CCs to the Government Pleader for Municipal Administration, High Court Buildings, Hyderabad (OUT).

5. Two CD copies.